

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:22-cv-00124-MR**

ASHLEY DEAN HERNY, )  
                        )  
Petitioner,         )  
                        )  
vs.                    )  
                        )  
STATE OF NORTH CAROLINA, et al., )  
                        )  
Respondent.         )  
                        )  
\_\_\_\_\_

**ORDER**

**THIS MATTER** is before the Court sua sponte on review of the docket in this matter.

Pro se Petitioner Ashley Dean Hernaly (“Petitioner”) is currently detained at the Buncombe County Detention Facility in Asheville, North Carolina. On June 6, 2022, he filed a “Writ of Habeas Corpus,” that was construed and docketed as seeking relief under 28 U.S.C. § 2254. [Doc. 1]. Petitioner failed to pay the filing fee or an application to proceed without prepayment of fees. The Clerk sent Petitioner a Notice of Deficiency, directing him to either pay the filing fee or the required application to proceed without prepayment of fees within 21 days of the Clerk’s Notice and notifying the Petitioner that his failure to do so may result in dismissal of this action without prejudice. [Doc. 2]. As of this Order, Petitioner has not complied with the Clerk’s Order. The

Court will, therefore, dismiss this action without prejudice.

**ORDER**

**IT IS, THEREFORE, ORDERED** that Petitioner's petition [Doc. 1] is **DISMISSED** without prejudice.

The Clerk is instructed to terminate this action.

**IT IS SO ORDERED.**

Signed: January 3, 2023

  
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Martin Reidinger  
Chief United States District Judge 